

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6606

BILL NUMBER: HB 1268

NOTE PREPARED: Jan 7, 2015

BILL AMENDED:

SUBJECT: Annexation.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill provides the following for annexation ordinances adopted on or after January 1, 2015:

- (1) It changes the annexation remonstrance process to be similar to the remonstrance process found in property tax statutes.
- (2) It removes certain judicial intervention in the annexation remonstrance process and the elements required to prevail at a remonstrance hearing.
- (3) It allows only the owners of nontaxable exempt property to sign a remonstrance.
- (4) It allows a municipality to exempt property from property tax liability for municipal purposes if the property is used for agricultural purposes (instead of classified as agricultural for zoning purposes).
- (5) It requires a landowner-initiated annexation to occur if at least 7/8 of the territory's boundaries are contiguous to the municipality.
- (6) It requires a fiscal plan to address the expected fiscal impact of the annexation on political subdivisions and taxpayers.
- (7) It provides that the annexation fiscal plan is similar to plans required for local government mergers and reorganizations, and requires the fiscal plan to be approved by the Department of Local Government Finance for accuracy and viability.
- (8) It requires remonstrators' consent to amend a fiscal plan after a remonstrance is filed.
- (9) It requires a municipality to conduct an outreach program to inform citizens about a proposed annexation.

After December 31, 2014, the bill requires the clerk of the municipality to file a certified copy of a judgment in favor of annexation that is final and unappealable. Requires, for an annexation effective after December

31, 2014, that the county legislative body approve a municipal advisory plan commission's exercise of territorial planning and zoning jurisdiction within two miles of annexation territory.

Effective Date: January 1, 2015 (retroactive).

Explanation of State Expenditures: The bill may increase the workload for the Department of Local Government Finance (DLGF) and the State Board of Accounts (SBOA). Expenses incurred by the DLGF are reimbursable by the annexing municipality for review and approval of fiscal plans, and the SBOA's workload increase is expected to be a one-time expense with minimal ongoing expenses.

The bill increases the workload of the DLGF to review and approve annexation fiscal plans. The resources needed by the DLGF will depend on the number of annexations undertaken and the complexity and completeness of the fiscal plans submitted by municipalities. The DLGF is required to approve or disapprove a plan within 30 days of submission. The DLGF will certify its expenses to the annexing municipality for reimbursement payable to the state General Fund.

Additionally, the SBOA will have a minimal one-time increase in its workload to design forms for remonstrance petitions and will provide the form to a county auditor upon request.

Explanation of State Revenues: *Court Fee Revenue:* Instead of filing a remonstrance in a circuit or superior court, a petition would be certified by a county auditor. To the extent that this may reduce the number of filings, revenue to the state General Fund from civil court filing fees may decrease. A civil courts filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. Other fees may apply as well.

Additional Information - A survey of municipalities that passed annexation ordinances between 2009 and 2013 found that about 5.7%, or 16 of 280, were remonstrated against and that about 3.5%, or 10 of 282, had an appeal.

Explanation of Local Expenditures: *Summary* - Costs will increase for an annexing municipality to provide a fiscal plan of annexation and to reimburse the DLGF's costs of review and approval of the fiscal plan. Advertising, public meeting, and postage expenses will increase too. The county auditor will incur additional costs to issue petitions and validate and certify property owner signatures. The amount of the municipal and county auditor costs is indeterminate and will depend on the number and complexity of annexations undertaken.

Other elements of the bill may have indeterminate fiscal impact on an annexing municipality based on the success of a remonstrance and other factors.

Additional Information - Costs for annexation may increase for the annexing municipality to provide a fiscal plan that meets certain criteria, to provide additional information to the DLGF, and to pay the DLGF's expenses for reviewing and approving the fiscal plan for accuracy and viability.

Under current law, a municipality develops a fiscal plan that describes the cost estimates of planned services, service financing methods, and plans for providing services of both a capital and noncapital nature. The bill

would require the same elements, but additionally sets a standard for the plans of having sufficient detail to provide a reasonable person with full and complete understanding of the proposal. It would also require a four-year estimate of effects of annexation on other political subdivisions in the county that are not part of the annexation. The proposal is submitted to the DLGF for review of accuracy, completeness, and validity of the fiscal plan. The DLGF may request additional information to aid in review of the plan. Any amendments to the plan are also to be reviewed by the DLGF.

Also, six months before an annexation ordinance is introduced, a municipality must conduct at least six informational meetings, providing

- (1) Maps showing the proposed boundaries,
- (2) Proposed plans for extension of capital and noncapital services, and
- (3) The expected fiscal impact on taxpayers.

Before the annexation ordinance can go into effect, the officers of the municipality must publish notice of the remonstrance process and, using first class mail, send notice to the circuit court clerk and the real property owners. The postage costs will depend on the number of real property owners in the territory to be annexed.

The county auditor will have an increased workload to verify petition signatures. The county auditor will have 15 days to verify the signatures. Five days after verifying the signatures, the county auditor will file a certificate with the municipal legislative body.

Additionally, the county auditor will request that the SBOA deliver remonstrance forms to the county auditor's office or printer for issuance to owners of real property. Printing costs will be determined by the number of petitions requested and the size of the form designed by the SBOA.

Completion of a remonstrance would require 110 days at most, including the filing of a remonstrance 30 to 90 days after an annexation ordinance and the time allotted to the county auditor to validate signatures and file a certificate with the municipal legislative body. Only nonexempt property owners may sign a petition of remonstrance. If a remonstrance is successful or an annexation ordinance is withdrawn, the municipality must wait 48 months to make a subsequent annexation in the same area. The fiscal impact on the annexing municipality resulting from these provisions is indeterminate.

Explanation of Local Revenues: *Agricultural Use:* Under current law, property that is *zoned* for agriculture is exempt from municipal property taxes. After 2015, property that is *used* for agriculture would be exempt from municipal property tax. If the property that is exempt is both zoned and used for agricultural, there will be no effect on revenues. However, if the property is zoned for some other purpose but used for agriculture, revenue that the municipality would otherwise have received after annexation could be reduced.

Court Fee Revenue: If fewer remonstrations are filed in a circuit or superior court, local governments would receive less revenue from court fees. Court fees are distributed as follows. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- A service fee (\$10) is collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: DLGF, SBOA.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Palmer, Jaime, Indiana Advisory Commission on Indiana, *Government Annexation in Indiana*, presented to the Interim Study Committee on Government, Indianapolis, September 24, 2014.

Fiscal Analyst: Karen Rossen, 317-234-2106.